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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/552,105	04/19/2000	Peter H. Schmidt	1331-US	3061

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TERADYNE, INC
321 HARRISON AVE
BOSTON, MA 02118

EXAMINER

NGUYEN, PHUOC H

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 04/05/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/552,105

Applicant(s)

SCHMIDT ET AL.

Examiner

Phuoc H. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment filed on January 26, 2004 (Paper No. 10). Previous office action (Paper No. 9) contained claims 1-20. Claims 1,4,5,7, and 11 have been amended. Amendment filed on January 26, 2004 have been entered and made of record. Therefore, pending claims 1-20 are presented for further consideration and examination.

Response to Arguments

2. Applicant's arguments with respect to currently amended claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Referring to claim 1, the first limitation is unclear and application forgot to insert a semicolon at the end of the limitation. Examiner suggested applicant to change from "providing with a diagnostic unit a diagnostic website" to "providing a diagnostic unit with a diagnostic website"; same claim 3rd limitation, examiner suggested applicant to change from "determining with said diagnostic unit configuration information ..." to "determining with said diagnostic unit a configuration information..."

Referring to claim 2, the limitation "utilizing at least one fault tolerant protocol stack" is unclear whether it utilizes at least one protocol of protocols within the fault tolerant protocol stack or it utilizes at least one fault tolerant protocol stack comprising several protocols within stack. For examination purposes, the examiner

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considers the above limitation as it utilizes at least one protocol of protocols within the fault tolerant protocol stack.

Referring to claim 3, the limitation "subscriber terminal is misconfigured" is unclear whether the fault tolerant protocol stack permits to communicate subscriber when subscriber is misconfigured with the diagnostic terminal or misconfigured with the selected network element (e.g. server). For examination purposes, the examiner considers the above limitation as the fault tolerant protocol stack permits to communicate subscriber when subscriber is misconfigured with the selected network element (e.g. server).

DETAILED ACTION

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 1,4,5,7-12,15, and 16 rejected under 35 U.S.C. 102(e) as being anticipated by Caswell et al. U.S. Patent 5,964,891.

6. Referring to claim 1, Caswell reference disclose providing a diagnostic unit (e.g. Figure 2, Diagnostic Terminal 106 or Diagnostic servers 120, and 130-132) with a diagnostic website (col. 8, lines 20-21; and lines 33-35); receiving, through the diagnostic website with the diagnostic unit, a communication from a subscriber experiencing a problem with a network (col. 8, lines 35-37); determining with said diagnostic unit configuration information of said subscriber terminal from portions of said communication generated by the subscriber terminal (col. 8, lines 35-39); and communicating, with said diagnostic unit, with a selected network element (eg. Service systems 101-103) (col. 8, lines 39-40).

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7. Referring to claim 4, Caswell reference disclose the network comprises the internet and an access network managed by an internet service provider, and the diagnostic unit is installed within the access network and the network element is connected to the diagnostic unit through the internet (Figure 2).
8. Referring to claim 5, Caswell reference disclose information electronically to a support operator (col. 4, lines 27-45; and col. 6, last paragraph through col. 7, 1st paragraph).
9. Referring to claims 7,8, and 9, Caswell reference disclose obtaining an identification of said subscriber includes determining username of said subscriber (Figure 10).
10. Referring to claims 10, Caswell reference disclose determining includes the step of emulating with said diagnostic unit at least one of login services to said subscriber, authentication services to said subscriber e-mail services to said subscriber and the Internet to said subscriber (Figure 2; and col. 5, lines 49-62).
11. Referring to claim 11, Caswell reference disclose the format of data sent by said subscriber (Figure 8).
12. Referring to claim 12, Caswell reference disclose the communication between the subscriber and diagnostic unit; Caswell does not explicitly teach that authenticating a password supplied by said subscriber for an Internet Service Provider (ISP) Net; however, it is an inherent feature to authenticate before communicate.
13. Referring to claims 15, and 16, Caswell reference disclose identifying and prioritizing said subscriber by said identification information within a trouble ticketing system of said service provider (Figures 10-12; and col. 11, last paragraph).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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15. Claims 2,3,6,12, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caswell et al. U.S. Patent 5,964,891 in view of Schwaller et al. U.S. Patent 5,881,237.

Referring to claims 2,3, and 6, Caswell reference disclose a subscriber is experiencing a problem (e.g. When the subscriber is misconfigured) with a network and report it to the diagnostic terminal through a web browser for diagnosis purposes; however, Caswell fail to teach the communication between the subscriber and diagnostic terminal is utilizing at least one fault tolerant stack.

Schwaller reference disclose console engine includes at least one network protocol stack to talk an endpoint nodes.

It would have been obvious to one of the ordinary skill in the art at the time of the invention was made to incorporate Schwaller's teaching into Caswell's method to utilize the protocol stack to communicate between devices (e.g. Diagnostic and subscriber), as a result, it will provide the ability to support multiple protocols and provide greater flexibility to communicate between devices.

16. Referring to claims 17-20, Caswell reference disclose providing a diagnostic unit in communication with a network (figure 2); receiving, with said diagnostic unit, a communication from a subscriber unable to communicate with a desired network element (col. 8, lines 33-47); and allowing communications between said subscriber and said diagnostic unit by accepting data from said subscriber and with a network element protocol of a establishing a communication link with the subscriber and sending an indication of the data received from the subscriber to the selected network element in a protocol consistent (e.g. HTTP) with the network element protocol (col. 8, lines 33-47, eg. Subscriber is experiencing a problem with the network; therefore, it generate a request to the diagnostic terminal which includes information about the subscriber. The diagnostic terminal then forward the request to the diagnostic server through an open standard communication protocol , which is Hyper Text Transport Protocol (HTTP)); however, Caswell fail to teach the protocol which is use between the communication between the subscriber and diagnostic terminal is utilizing a source protocol inconsistent (Fault Tolerant Protocol stack) which is different from the diagnostic terminal communicate with the network element.

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Schwaller reference disclose console engine includes at least one network protocol stack (protocol inconsistent) talk an endpoint nodes (col. 27, lines 44-60).

It would have been obvious to one of the ordinary skill in the art at the time of the invention was made to incorporate Schwaller's teaching into Caswell's method to utilize the protocol stack (e.g. Protocol inconsistent) to communicate between devices (e.g. Diagnostic and subscriber), as a result, it will provide the ability to support multiple protocols and provide greater flexibility to communicate between devices.

17. Claims 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caswell et al. U.S. Patent 5,964,891 in view of Stephanou et al. U.S. Patent 6,513,013.

Caswell reference disclose a subscriber is experiencing a problem with a network and report it to the diagnostic terminal through a web browser for diagnosis purposes; however, Caswell fail to teach authenticating a password supplied by said subscriber for an Internet Service Provider (ISP) Net, and sending an e-mail to a diagnostic unit from said subscriber and receiving an e-mail from said diagnostic unit by said subscriber.

Stephanou reference discloses an e-mail to a diagnostic unit from said subscriber and receiving an e-mail from said diagnostic unit by said subscriber (col. 3, lines 34-40; and col. 4, lines 15-21).

It would have been obvious to one of the ordinary skill in the art at the time of the invention was made to incorporate Stephanou's teaching into Caswell's method to use email to communicate between subscriber and diagnostic unit, so to allow email response to the problem being posed and also allowing back and forth communication over network with will facilitate solving the customer's problem in an effective and efficient manner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc H. Nguyen whose telephone number is 703-305-5315. The examiner can normally be reached on Mon -Thu (7AM-4:30PM) and off every other Friday.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuoc H. Nguyen
Examiner
Art Unit 2143

March 31, 2004


DAVID WILEY
SUPERVISORY PATENT EXAMINER
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